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Supreme Court of the United States

REBECCA FRIEDRICHS, *et al.*,
Petitioners,

v.

CALIFORNIA TEACHERS ASSOCIATION, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF NATIONAL WOMEN'S LAW CENTER, THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS, THE HUMAN RIGHTS CAMPAIGN, AND 70 ADDITIONAL ORGANIZATIONS COMMITTED TO CIVIL RIGHTS AND ECONOMIC OPPORTUNITY AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS

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Glenn v. Brumby, 663 F.3d 1312 (11th Cir. 2011) 18

Hilton v. South Carolina Public Railways Commission, 502 U.S. 197 (1991) 22

Isaacs v. Felder Services, LLC, No. 2:13-cv-693 (MHT), 2015 WL 6560655 (M.D. Ala. Oct. 29, 2015) 18

Kimble v. Marvel Entertainment, LLC, 135 S. Ct. 2401 (2015) 22

Lehnert v. Ferris Faculty Ass'n, 500 U.S. 507 (1991) 20

Payne v. Tennessee, 501 U.S. 808 (1991) 22

Quill Corp. v. North Dakota, 504 U.S. 298 (1992) 24

Smith v. City of Salem, 378 F.3d 566 (6th Cir. 2004) 18

ADMINISTRATIVE RULINGS

Baldwin v. Department of Transportation, Appeal No. 0120133080 (EEOC July 15, 2015) 18

Macy v. Department of Justice, Appeal No. 0120120821 (EEOC Apr. 20, 2012) 18

OTHER AUTHORITIES

AFL-CIO, *The Union Difference 2015* 10, 11, 13

Crosby Burns, Kate Childs Graham, and Sam Menefee-Libey, Center for American Progress, *Gay and Transgender Discrimination in the Public Sector: Why It's a Problem for State and Local Governments, Employees, and Taxpayers* (2012) 7, 15, 18

Patricia Cohen, *Public-Sector Jobs Vanish, Hitting Blacks Hard*, N.Y. TIMES, May 25, 2015, at A1 9

Council of Economic Advisers Issue Brief, *Worker Voice in a Time of Rising Inequality* (Oct. 2015) 7

Matthew Dimick, *Labor Law, New Governance, and the Ghent System*, 90 N.C. L. Rev. 319 (2012) 22

Economic Policy Institute, Fact Sheet, *The Benefits of Collective Bargaining: An Antidote to Wage Decline and Inequality* (Apr. 14, 2015) 13

Katherine Gallagher Robbins & Andrea Johnson, National Women's Law Center, Fact Sheet: *Public Sector Unions Promote Economic Security and Equality for Women* (Nov. 2015) 8, 9, 10, 12, 14, 19

Katherine Gallagher Robbins & Anne Morrison, National Women's Law Center, Fact Sheet: *Union Membership is Critical for Women's Wage Equality* (Feb. 2015) 10, 11, 12

Elise Gould & Will Kimball, Economic Policy Institute, *"Right-to-Work" States Still Have Lower Wages*, Briefing Paper #395 (Apr. 22, 2015) 21

Elise Gould & Heidi Shierholz, Economic Policy Institute, *The Compensation Penalty of "Right-to-Work" Laws*, Economic Policy Institute Briefing Paper #299 (Feb. 17, 2011) 21

Institute for Policy Studies, *And Still I Rise: Black Women Labor Leaders' Voices / Power / Promise* (2015) 9

Institute for Women's Policy Research, *The Union Advantage for Women* (Aug. 2015) 11-12, 13

Janelle Jones, John Schmitt & Nicole Woo, Center for Economic and Policy Research, *Women, Working Families, and Unions* (June 2014) 8, 9, 10, 13, 15

Anne Morrison & Katherine Gallagher Robbins, National Women's Law Center, *Women's Overrepresentation in Low-Wage Jobs* (Oct. 2015) 5, 6

Anne Morrison & Katherine Gallagher Robbins, National Women's Law Center, *The Women in the Low-Wage Workforce May Not Be Who You Think* (Sept. 2015) 5, 6

National Women's Law Center, Fact Sheet: *Bargaining for Schedule Fairness* (Sept. 2015) 15, 16

National Women's Law Center, Fact Sheet: *FAQ About the Wage Gap* (Sept. 2015) 5, 11

National Women's Law Center, Fact Sheet: *The Wage Gap Is Stagnant for Nearly a Decade* (Sept. 2015) 6

Non-Discrimination Laws: State by State Information— Map, American Civil Liberties Union, https://www.aclu.org/map/non-discrimination-laws-state-state-information-map 17

Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups* (1971 ed.) 21

Catherine Ruetschlin, Demos & Dedrick Asante-Muhammad, NAACP, *The Retail Race Divide: How the Retail Industry is Perpetuating Racial Inequality in the 21st Century* (2015) 11

Brad Sears, Nan D. Hunter & Christy Mallory, The Williams Institute, *Documenting Discrimination on the Basis of Sexual Orientation and Gender Identity in State Employment* (2009) 7

Brad Sears & Christy Mallory, *Employment Discrimination Against LGBT People: Existence and Impact, in Gender Identity and Sexual Orientation Discrimination in the Workplace* (Christine Michelle Duffy & Denise M. Visconti eds., 2014) 17

Amy Traub, David Callahan, Tamara Draut, Demos, *Millions to the Middle: 14 Big Ideas to Build a Strong & Diverse Middle Class* (Sept. 2012) 16

U.S. Dep't of Labor, Bureau of Labor Statistics, Economic News Release, *Table 3. Union Affiliation of Employed Wage and Salary Workers by Occupation and Industry* (Jan. 23, 2015) 3

U.S. Dep't of Labor, Bureau of Labor Statistics, Economic News Release, *Table 1. Union Affiliation of Employed Wage and Salary Workers by Selected Characteristics* (Jan. 23, 2015) 9, 10

U.S. EEOC, *What You Should Know: EEOC and Enforcement Protections for LGBT Workers*, http://www.eeoc.gov/eeoc/newsroom/wysk/enforcement_protections_lgbt_workers.cfm (last visited Nov. 10, 2015) 18

Liz Watson, Elizabeth Johnston, Katherine Gallagher Robbins & Anne Morrison, National Women's Law Center, Fact Sheet: *Collateral Damage: Scheduling Challenges for Workers in Low-Wage Jobs and Their Consequences* (June 2015)..... 6, 16

Nicole Woo, Cherrie Bucknor & John Schmitt, Center for Economic and Policy Research, *Asian American and Pacific Islander Workers' Union Membership* (Jan. 2015)..... 9

INTEREST OF *AMICI CURIAE*[1]

Amici are organizations committed to economic security for working families, including equal employment opportunities for women, people of color, and LGBT individuals. As set out in this brief, the questions presented by this case are critical to achieving these goals.

Amicus curiae, the National Women's Law Center ("NWLC"), works to expand, protect, and promote opportunities for women and girls at all stages of their lives, from education to employment to retirement security to health care. The NWLC's Workplace Fairness & Equality program fights for equal opportunities and fair treatment for women in all aspects of their employment.

Amicus curiae, The Leadership Conference on Civil and Human Rights ("The Leadership Conference") is a coalition of more than 200 national organizations committed to the protection of civil and human rights in the United States. It is the nation's oldest, largest, and most diverse civil and human rights coalition. The Leadership Conference was founded in 1950 by three legendary leaders of the civil and labor rights movements—A. Philip Randolph of the Brotherhood of Sleeping Car Porters and the first African-American vice-president of the AFL-CIO; Roy Wilkins of the

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[1] No person or entity other than *amici* and their counsel made a monetary contribution to the preparation or submission of this brief. Counsel of record for the parties have consented to the filing of this brief, and blanket letters of consent have been filed with the clerk pursuant to Rule 37.6.

NAACP; and Arnold Aronson of the National Jewish Community Relations Advisory Council. Its member organizations represent people of all races, ethnicities, and sexual orientations. The Leadership Conference works to build an America that is inclusive and as good as its ideals, and believes that labor and civil rights groups must continue to stand united on the front lines of the fight against discrimination and injustice.

Amicus curiae, Human Rights Campaign ("HRC") is the largest national lesbian, gay, bisexual and transgender political organization, envisions an America where lesbian, gay, bisexual and transgender people are ensured of their basic equal rights, and can be open, honest and safe at home, at work and in the community. Among those basic rights is freedom from discrimination and access to equal opportunity.

This brief is also submitted on behalf of 70 additional organizations that are dedicated to protecting civil rights and ensuring equality of opportunity for all workers and their families. Those groups are listed in Appendix A to this brief.

SUMMARY OF ARGUMENT

Petitioners ask this Court to overrule its decades-old precedent in *Abood v. Detroit Board of Education*. 431 U.S. 209 (1977). Were this Court to do so, it would undermine one of the most successful vehicles for providing economic and professional opportunities for American workers, and, in particular, for women, people of color, and lesbian, gay, bisexual, and transgender ("LGBT") workers. Put simply, unions have provided a critical path to the middle class for

generations of working people, including the nurses, first responders, teachers, and others who comprise the membership of public sector unions.[2] A wealth of data shows that women, people of color, and LGBT workers represented by union contracts—which includes *both* members and non-members—face smaller income gaps, enjoy greater basic benefits like health insurance and parental leave, have safer workplaces, and are better protected against discrimination than their non-union counterparts.

These benefits are, in part, the product of the unions' authority to collectively bargain with the public employer and enforce the terms of the agreement through grievance procedures. In turn, the capacity of a union to effectively bargain and represent all workers in a bargaining unit—union members and non-members alike—requires a fair share provision to avoid the problem of free riding. The empirical evidence shows that the economic opportunities that unions afford are substantially greater in those states where the fair share rule is in place.

This Court affirmed the constitutionality of these fair share provisions for public sector unions in *Abood*. Since that decision, fair share provisions have been incorporated as an essential element into thousands of collective bargaining agreements across the country.

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[2] As of 2014, over seven million Americans are members of unions in the public sector, and nearly eight million Americans are represented by unions in the public sector. U.S. Dep't of Labor, Bureau of Labor Statistics, Economic News Release, *Table 3. Union Affiliation of Employed Wage and Salary Workers by Occupation and Industry* (Jan. 23, 2015).

Thus, for nearly 40 years, state and local governments, public sector workers, and their unions have all relied on this Court's clear holding in *Abood*, which the Court has repeatedly reaffirmed, and in fact expressly declined to overrule just last year in *Harris v. Quinn*. Overturning that decision now would compromise the opportunities that millions of working people and their families have relied upon for decades. In short, this is a case where the values of *stare decisis* are at their peak.

Amici thus urge this Court to reaffirm *Abood* so that all unionized public sector workers, including women, people of color, and LGBT workers—whether union members or represented non-members—may continue to take advantage of the equal opportunities that the *Abood* rule helps safeguard.

ARGUMENT

I. *Abood's* Fair Share Rule Has Yielded Critical Economic Opportunities for All Workers, And for Women, People of Color, and LGBT Workers In Particular.

Women, people of color, and LGBT workers continue to face discrimination in the workplace. Unions offer significant economic opportunities and protections that help these workers overcome those hurdles.

A. Women, People of Color, and LGBT Workers Face Discrimination in the Workplace.

Many American workers face obstacles that prevent them from taking advantage of the economic

opportunities that provide security and dignity to the middle class. Women, people of color, and LGBT workers experience significant barriers in employment, including unequal pay, discriminatory treatment, unpredictable schedules, and a lack of access to affordable health care.

In 2014, women who worked full time, year round in the United States were paid only 79 cents for every dollar paid to their male counterparts. *See* Nat'l Women's Law Ctr., Fact Sheet: *FAQ About the Wage Gap* 1 (Sept. 2015) (comparing median earnings by women in full time, year round employment with median earnings by men in full time, year round employment). This wage gap reflects a number of factors including lower pay for women within the same jobs, segregation of women into lower-paying jobs, bias against women caregivers as workers, and workplace policies that impose long-term economic penalties on workers who take time out of the workforce to care for their families. *Id.*

Women—many of whom are supporting families—are over-represented in the low-wage workforce and comprise *two-thirds* of low-wage workers, despite making up slightly less than half of the workforce overall. *See* Anne Morrison & Katherine Gallagher Robbins, Nat'l Women's Law Ctr., *Women's Overrepresentation in Low-Wage Jobs* 1 (Oct. 2015) (defining low-wage jobs as those that typically pay $10.50 per hour or less); Anne Morrison & Katherine Gallagher Robbins, Nat'l Women's Law Ctr., *The Women in the Low-Wage Workforce May Not Be Who You Think* 4 (Sept. 2015). Nearly half of women in the

low-wage workforce are women of color, NWLC, *The Women in the Low-Wage Workforce*, at 4, and women of color are disproportionately represented in the low-wage sector of the workforce. NWLC, *Women's Overrepresentation*, at 6. For example, African American women are 6 percent of the overall workforce but their share of the low-wage workforce is nearly double that at 11 percent. *Id.* This is not the case for any group of men. *Id.*

Low wages are often accompanied by poor workplace conditions and unpredictable schedules. *See, e.g.*, Liz Watson, Elizabeth Johnston, Katherine Gallagher Robbins & Anne Morrison, Nat'l Women's Law Ctr., *Collateral Damage: Scheduling Challenges for Workers in Low-Wage Jobs and Their Consequences* 1 (June 2015) (describing the lack of control over work schedules, unpredictable work schedules, unstable work schedules, involuntary part-time work, and nonstandard work schedules faced by low-wage workers).

People of color also suffer from a substantial gap in earnings. African American and Hispanic women experience greater wage gaps—60 cents and 55 cents for every dollar paid to white, non-Hispanic men, respectively—than their white, non-Hispanic counterparts. *See* Nat'l Women's Law Ctr., Fact Sheet: *The Wage Gap Is Stagnant for Nearly a Decade* 1-2 (Sept. 2015). African American men typically earned 73 percent of what white, non-Hispanic men earned in 2014. *Id.* at 2. For Hispanic men, the gap was even larger—62 percent. *Id.*

LGBT workers also experience economic discrimination in the workplace. Multiple studies establish that gay and bisexual men earn 10 to 32 percent less than similarly qualified heterosexual men, and lesbian women earn the same or more as heterosexual women but less than either heterosexual or gay men. Brad Sears, Nan D. Hunter & Christy Mallory, The Williams Institute, *Documenting Discrimination on the Basis of Sexual Orientation and Gender Identity in State Employment* 10-1 (2009). These wage gaps persist in the public sector: gay, lesbian, and bisexual government workers earn 8 to 29 percent less than similarly situated heterosexual workers. *Id.* 10-1 to 10-2. The wages of transgender women workers fell by almost one-third following their transitions. Crosby Burns, Kate Childs Graham & Sam Menefee-Libey, Ctr. for Am. Progress, *Gay and Transgender Discrimination in the Public Sector: Why It's a Problem for State and Local Governments, Employees, and Taxpayers* 11 (Sept. 2012).

B. Unions Provide A Critical Path To The Middle Class, Especially For Women, People of Color, and LGBT Workers.

Unions lift the wages of workers overall, and particularly the wages of lower-wage workers. *See* Council of Economic Advisers Issue Brief, *Worker Voice in a Time of Rising Inequality* at 4-6 (Oct. 2015). Union representation dramatically improves access to benefits that provide stability and security for workers. Unionized workplaces can, and do, create norms regarding pay and benefits that improve compensation and benefits for union and non-union workers alike.

Moreover, compared to their non-union counterparts, union workers are better able to combat wage discrimination and other forms of unfair treatment though greater transparency and collective bargaining efforts.

Union representation has a particularly significant impact on the wages of women and people of color for a variety of reasons including the fact that unions are an important tool for addressing discrimination or bias that impedes workplace success.

1. Women and people of color comprise a substantial percentage of union membership, including public union membership.

Today, women represent just under than half of the unionized workforce, and if current trends continue, women will comprise over half of the unionized workforce within the next decade. *See* Janelle Jones, John Schmitt & Nicole Woo, Ctr. for Econ. and Policy Research, *Women, Working Families, and Unions* 8 (June 2014) ("2014 CEPR Study"). A substantial majority of the women in unions—over 60 percent as of 2013—were members of public sector unions. *See id.* Indeed, women constitute 55 percent of unionized public sector workers nationwide. *See* Katherine Gallagher Robbins & Andrea Johnson, Nat'l Women's Law Ctr., Fact Sheet: *Public Sector Unions Promote Economic Security and Equality for Women*, NWLC Fact Sheet 1 (Nov. 2015).

People of color are also well-represented in unions, including public unions. More than 30 percent of public sector union members are racial and ethnic minorities. NWLC, *Public Sector Unions* at 6 n.1. Indeed, African Americans are more likely than white workers to be employed in the public sector. Patricia Cohen, *Public-Sector Jobs Vanish, Hitting Blacks Hard*, N.Y. TIMES, May 25, 2015, at A1. Last year, black women had the second-highest union representation rate, after black men, compared with other race and gender groups. U.S. Dep't of Labor, Bureau of Labor Statistics, Economic News Release, *Table 1. Union Affiliation of Employed Wage and Salary Workers by Selected Characteristics* (Jan. 23, 2015) (stating that 13.5 percent of black women in 2014 were represented by unions, compared to 15.8 percent of black men); *see also* Institute for Policy Studies, *And Still I Rise: Black Women Labor Leaders' Voices / Power / Promise* 1 (2015). Black women have historically had higher unionization rates than other racial and ethnic groups. *See* 2014 CEPR Study at 11 (considering all unions, both public and private sector). This is not surprising given that public sector employment has long been an important pathway to the middle class for African Americans in particular

Women in other racial minority groups also have a higher unionization rate than women overall. For example, from 2010 to 2014, Asian American and Pacific Islander women had a higher unionization rate (11.3 percent) than that of all female workers (10.7 percent). Nicole Woo, Cherrie Bucknor & John Schmitt, Ctr. for Econ. and Policy Research, *Asian American and*

Pacific Islander Workers' Union Membership 3 (Jan. 2015); *see also* U.S. Dep't of Labor *Table 1* (showing 12.6 percent of Asian American women represented by unions in comparison with 11.7 percent of all female workers).

2. Unions increase opportunities for earnings parity for women and people of color.

Unions are engines of earnings parity for women and people of color. Wages for women union members are not only higher than their non-union counterparts, they are closer to those of male co-workers. In some instances those effects are even greater for women of color union members.

As an initial matter, the union wage benefit for women is larger than the union wage benefit for men. Katherine Gallagher Robins & Anne Morrison, Nat'l Women's Law Ctr., Fact Sheet: *Union Membership is Critical for Women's Wage Equality* 2 (Feb. 2015). Unionized women can earn on average 13 percent, or about $2.50 per hour, more than similarly situated non-union women. *See* 2014 CEPR Study at 1. Weekly median earnings for union women are $904 while non-union women earn $687. AFL-CIO, *The Union Difference 2015*. And female union members who work full time typically make 32 percent more than female non-union workers, which is larger than the 21 percent earnings premium unionized men receive. NWLC, *Union Membership is Critical* at 2. Unionized women working in the public sector typically make 24 percent or $192 per week more than non-unionized women

working in the public sector ($987 versus $795). *See* NWLC, *Public Sector Unions* at 2.

The opportunities created by unions are especially significant for people of color. African American workers who are in unions earn higher wages than those who are not. *See* Catherine Ruetschlin, Demos & Dedrick Asante-Muhammad, NAACP, *The Retail Race Divide: How the Retail Industry is Perpetuating Racial Inequality in the 21st Century* 33 (2015). African American union workers' median weekly earnings are $810 in comparison to $611 for African American non-union workers. AFL-CIO, *The Union Difference 2015*. This discrepancy is particularly strong for African American women union members, who make 34 percent more than African American women non-union members. NWLC, *Union Membership is Critical* at 2. Likewise, Latina union members typically make 46 percent more than Latina non-union members. *Id.* For Latino union workers overall, median weekly earnings are $811 in comparison to $573 for Latino non-union workers. AFL-CIO, *The Union Difference 2015*. For Asian American union workers, median weekly earnings are $979 in comparison to $948 for Asian American non-union workers. *Id.*

Wages are not only higher for women in unions, they are also more equal. Looking at the workforce generally, women working full time, year round in the United States are paid only 79 cents for every dollar paid to their male counterparts. *See* NWLC, *FAQ* at 1. Unions are associated with smaller wage gaps related to gender and race in part because they promote transparency in criteria and decisions on compensation,

recruitment, and promotions. *See* Institute for Women's Policy Research, *The Union Advantage for Women* 1 (Aug. 2015) ("IWPR Report"). Gender-based wage gaps persist throughout the economy, but the wage gap for union members is 40 percent smaller than the wage gap among non-union workers. NWLC, *Union Membership is Critical* at 1.

While the gender wage gap for non-union workers is typically 18.2 cents for full time workers, the wage gap for union members is typically 10.9 cents. NWLC, *Union Membership is Critical* at 1. The effect on the wage gap is particularly pronounced for public sector workers. For full time, year round unionized public sector workers, the gender wage gap (10.7 cents on the dollar) is a little more than half the size of the gap for their non-unionized public sector counterparts (20.3 cents on the dollar). *See* NWLC, *Public Sector Unions* at 3.

The improvement in the wage gap for all union members is even greater still for some women of color. The wage gap between African American women and white men who work full-time is 24 cents for union workers, but 32 cents for non-union workers. NWLC, *Union Membership is Critical* at 1. The wage gap between Latinas and white men who work full-time is 27 cents for union workers, but 40 cents for non-union workers. *Id.*

3. Unions provide additional opportunities for benefits for women, people of color, and LGBT workers.

Unionized workplaces also offer better benefits for workers and their families, including health, retirement, and family leave benefits. Unionized workers are much more likely than non-unionized workers to have an employer-provided pension. *See* Economic Policy Institute, Fact Sheet, *The Benefits of Collective Bargaining: An Antidote to Wage Decline and Inequality* (Apr. 14, 2015). Seventy-six percent of union workers participate in a guaranteed pension plan in comparison to only 16 percent of non-union workers. AFL-CIO, *The Union Difference 2015*. Women in unions are 53 percent more likely than non-unionized women to participate in employer-sponsored retirement plans. *See* 2014 CEPR Study at 1. The difference in pension plan participation rates between unionized and non-unionized women ranges from about 27 percentage points for African American women to about 35 percentage points for Asian/Pacific Islander women. IWPR Report at 8.

While 83 percent of union workers have paid sick leave, only 62 percent of non-union workers have paid sick leave. AFL-CIO, *The Union Difference 2015*. Unionized workers are 28.2 percent more likely than non-unionized workers to be covered by health insurance sponsored by their employer. *See* Economic Policy Institute, Fact Sheet; *see also* AFL-CIO, *The Union Difference 2015* (concluding that 79 percent of union workers participate in job-provided health

insurance but only 49 percent of non-union workers participate in job-provided health insurance). Employers in union workplaces also typically cover a higher share of workers' health insurance costs. *See* 2014 CEPR Study at 17. Women in unions are 36 percent more likely than women who are not union members to receive health insurance from their job. *See id.* at 1. For unionized women who take parental leave, their leave is 13 percent more likely to be paid when compared to leave taken by non-union women. *Id.* at 20-21. Another study reports an even higher union advantage for hourly workers. *Id.*

Public sector workers who are represented by unions are also more likely to have health insurance than their non-unionized counterparts and this is especially true for women working in the public sector. *See* NWLC, *Public Sector Unions* at 4. While 78.1 percent of women working in the public sector who are represented by unions are policyholders for an employer-based health insurance plan, only 62.4 percent of their non-unionized counterparts are policyholders, a difference of 15.7 percentage points. *Id.* The difference for men is smaller, at only 11.6 percentage points (86.0 percent of union-represented men versus 74.4 percent of their non-union counterparts). *Id.* For unionized public sector workers, the gender gap in employer-based health insurance is also one-third smaller: the public sector gender gap between the share of women and men who are policyholders for an employer-based health insurance plan is smaller for workers represented by unions (7.9 percentage points) than for their non-

unionized counterparts (12 percentage points). *Id.* at 5. These benefits enable women to support their families, afford health care, and plan for their retirement.

Women who are unionized workers have greater employment security when faced with changing family responsibilities or unexpected health crises. Unionized workplaces are 22 percent more likely than non-union workplaces to provide parental leave, and are 12 percent more likely to allow women to take leave during pregnancy. *See* 2014 CEPR Study, at 1-2. Union workplaces are also 16 more percent more likely to allow workers to take medical leave for their own illness and 19 percent more likely to allow workers to take leave for a family member's illness. *See id.*

Unions also provide greater opportunities for LGBT workers to support their families. While 53 percent of state and local workers represented by unions had access to health care coverage for same-sex domestic partners, only 17 percent of non-union state and local workers had this access. Ctr. for Am. Progress, *Gay and Transgender Discrimination* at 15. Only 29 percent of private-sector workers, both union and non-union, had access to health care coverage for same-sex domestic partners. *Id.* The same study reports that 57 percent of state and local union workers had access to survivor benefits in retirement for same-sex domestic partners, in comparison with only 47 percent of non-union public sector workers. *Id.*

Unionized workforces can and do bargain for improved workplace conditions and more stable, predictable work schedules, thereby allowing both women and men to balance the demands of work and

family. This is particularly important for women, who make up two-thirds of the low-wage workforce that is often characterized by unpredictable scheduling practices. Nat'l Women's Law Ctr., Fact Sheet: *Bargaining for Schedule Fairness* 1 (Sept. 2015). Uncertainty regarding shift times, demands placed by schedules that require workers to be "on-call," and inconsistency in the number of hours or shifts available are barriers to women seeking to secure child care, pursue their education, or meet their regular financial obligations, much less plan for their financial futures. *See* NWLC, *Collateral Damage* at 1-5. Unions have addressed schedule unpredictability, lack of worker control over schedules, and involuntary part-time work. *See* NWLC, *Bargaining for Schedule Fairness* at 1-2. Such improvements include posting changes to work schedules in advance and notifying affected workers of schedule changes as soon as possible. *Id.* Unionized workers have also negotiated for policies that require minimum pay if a worker is called in, prohibit mandatory overtime, or permit alternative work schedules. *Id.*

Unions advocate for improved workplace conditions and provide an important voice for workplace safety—not only in union workplaces but industry-wide. In areas or industries with high union representation, "unions can exert upwards pressure on industry standards across-the-board." *See* Amy Traub, David Callahan & Tamara Draut, Demos, *Millions to the Middle: 14 Big Ideas to Build a Strong & Diverse Middle Class* 38 (Sept. 2012).

4. Unions provide important protections against discrimination, particularly for LGBT workers.

Union representation protects workers from discriminatory adverse actions, including termination. Unions frequently bargain for protections that enable workers to participate in the workforce with dignity, without fear of discrimination, and with the fair opportunity to realize potential and achieve career advancement. For several decades, unions have played a vital role in combating discrimination, especially on the basis of race and gender, as well as fostering integration and diversity in the workplace and throughout the country. When discriminatory acts and practices do arise, union representatives are the first line of defense in terms of implementing legal protections and helping their members navigate civil rights and labor laws.

Increasingly, those protections are particularly important in the context of discrimination on the basis of sexual orientation and gender identity. Surveys indicate that a large proportion of LGBT workers experience such workplace conditions. *See, e.g.*, Brad Sears & Christy Mallory, *Employment Discrimination Against LGBT People: Existence and Impact*, *in Gender Identity and Sexual Orientation Discrimination in the Workplace* 40-3 to 40-12 (Christine Michelle Duffy & Denise M. Visconti eds., 2014).

Yet LGBT workers do not have consistent and universal legal protections against discrimination based

on their sexual orientation or gender identity. Only 19 states and the District of Columbia prohibit discrimination on those grounds. *See Non-Discrimination Laws: State by State Information – Map*, Am. Civil Liberties Union, https://www.aclu.org/map/non-discrimination-laws-state-state-information-map. LGBT workers also face a patchwork of protections under federal law that may or may not apply to their factual circumstances.[3]

Unions, however, have frequently bargained to protect LGBT workers. For example, within the American Federation of State, County, and Municipal Employees, over 1,000 union contracts prohibit discrimination based on sexual orientation, and many

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[3] The EEOC has held that Title VII protects against discrimination on the basis of sexual orientation or gender identity. *See* U.S. EEOC, *What You Should Know: EEOC and Enforcement Protections for LGBT Workers*, *available at* http://www.eeoc.gov/eeoc/newsroom/wysk/enforcement_protections_lgbt_workers.cfm (last visited Nov. 10, 2015). But while the EEOC has held that Title VII protects against discrimination on the basis of sexual orientation and gender identity, *see Baldwin v. Department of Transportation*, Appeal No. 0120133080 (EEOC July 15, 2015) (sexual orientation); *Macy v. Department of Justice*, Appeal No. 0120120821 (EEOC April 20, 2012) (gender identity), those conclusions have not yet been universally adopted and the law remains unsettled. To be sure, at least one federal district court has adopted the EEOC rationale regarding sexual orientation, *Isaacs v. Felder Services, LLC*, No. 2:13-cv-693 (MHT), 2015 WL 6560655 (M.D. Ala. Oct. 29, 2015), and certain federal courts have held that Title VII prohibits discrimination against transgender employees, *see Glenn v. Brumby*, 663 F. 3d 1312 (11th Cir. 2011); *Smith v. City of Salem*, 378 F. 3d 566 (6th Cir. 2004).

include gender identity language. Ctr. for Am. Progress, *Gay and Transgender Discrimination* at 15. As a result, the grievance procedures established through unions frequently provide the primary (or sole) recourse for workers who face discrimination because of their sexual orientation or gender identity. Antidiscrimination provisions in collective bargaining agreements benefit workers even in jurisdictions that do provide legal protections because they channel fact-dependent claims into efficient dispute resolution mechanisms.

5. Both members and represented non-members obtain critical benefits from union representation.

Wages and access to employer-based health insurance programs are higher both for public sector union members *and* for non-members who are represented by unions. Women in the public sector who are represented by unions (but who are not union members) make 15 percent more—$119 per week—than women in the public sector who lack the protections of union representation ($914 versus $795). *See* NWLC, *Public Sector Unions* at 6. The gender wage gap is also smaller both for women who are union members and women who are not members but are represented by unions. Women union members and women who are represented by unions in the public sector typically have a wage gap of about 10 cents on the dollar, making approximately 90 percent of their male counterparts' salaries. *See id.* While less than two-thirds of public sector women who are not

unionized (62.4 percent) are policyholders for employer-based health insurance, 78.5 percent of women public sector union members and 75.1 percent of women public sector workers who are represented by (but not members) of unions are policyholders. *See id.*

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In sum, unions—and public sector unions in particular—provide a path to equality of economic opportunity for women, people of color, and LGBT workers. In every important respect—wages, benefits, work place safety, schedule predictability and flexibility—unions can bargain for greater economic opportunity and equality for all workers.

C. Fair Share Provisions Are Necessary to Preserve the Opportunities Provided by Public Sector Unions To All Workers by Preventing Free Riding.

The ability of unions to achieve these protections and benefits is threatened when workers are permitted to "free ride" by receiving the benefit of the union's bargaining without contributing to the union. As this Court has recognized, fair share provisions for non-union workers are necessary to avoid a "free rider" problem where workers refuse to fund the union while benefiting from its activities. *See Lehnert v. Ferris Faculty Ass'n*, 500 U.S. 507, 556-57 (1991) (Scalia, J., concurring in judgment and dissenting in part). Without these fair share provisions, free riding by non-members would dramatically weaken public sector unions, which would then be less able to provide the above-described benefits to both union and non-union

members. *See, e.g., Abood*, 431 U.S. at 221-22 ("A union-shop arrangement has been thought to distribute fairly the cost of these activities among those who benefit, and it counteracts the incentive that employees might otherwise have to become 'free riders' to refuse to contribute to the union while obtaining benefits of union representation that necessarily accrue to all employees").

In "right-to-work" states, where legislation entitles workers who are non-union members to union contract benefits without paying fair share fees, wages are on average 3.2 percent lower—for everyone, not just unionized workers—than wages in non-"right-to-work" states, even when controlling for worker characteristics and state labor market conditions. *See* Elise Gould & Heidi Shierholz, Economic Policy Institute, *The Compensation Penalty of "Right-to-Work" Laws*, Briefing Paper #299 1, 5, 8 (Feb. 17, 2011); *see also* Elise Gould & Will Kimball, Economic Policy Institute, *"Right-to-Work" States Still Have Lower Wages*, Briefing Paper #395 2 (Apr. 22, 2015).

Further, wages in "right-to-work" states were 4.4 percent lower for women who work full time and year round than in non-"right-to-work" states (a greater drop than the 1.7 percent lower wages for men who worked full time and year round). *See* Economic Policy Institute Briefing Paper #299 at 6.

The economic consequences of eliminating the fair share provision—the free rider problem—are easy to model. *See* Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups* 88 (1971 ed.) ("A rational worker will not voluntarily

contribute to a (large) union providing a collective benefit since he alone would not perceptibly strengthen the union, and since he would get the benefits of any union achievements whether or not he supported the union."). Empirical evidence demonstrates the consequences of free riding with "[s]everal studies show[ing] that the level of free riding is higher in right-to-work states." *See* Matthew Dimick, *Labor Law, New Governance, and the Ghent System*, 90 N.C. L. Rev. 319, 354 & n.187 (2012) (citing studies).

II. *Abood* Should Not Be Overruled In Light Of These Substantial Benefits.

Petitioners now ask this Court to overrule *Abood*, despite the fact that it has been the law for nearly 40 years, and despite the fact that the Court declined to overrule the decision just last year in *Harris v. Quinn*. This Court should reject that invitation. In light of *Abood's* substantial benefits, the reliance interests in maintaining *Abood* are obvious and material for the millions of workers—both union members and represented non-members—who have benefitted from the equality of economic opportunity the rule helps support.

As this Court has repeatedly explained, *stare decisis* "fosters reliance on judicial decisions." *Payne v. Tennessee*, 501 U.S. 808, 827 (1991) (citing authority). Those interests are at their height here because *Abood* is the foundation for thousands of contracts with millions of workers nationwide. *See id.* at 828 ("Considerations in favor of *stare decisis* are at their acme in cases involving property and contract rights, where reliance interests are involved."); *see also*

Kimble v. Marvel Entm't, LLC, 135 S. Ct. 2401, 2410 (2015) (explaining that "parties are especially likely to rely on such precedents when ordering their affairs."); *Hilton v. S.C. Pub. Rys. Comm'n*, 502 U.S. 197, 202 (1991) ("*Stare decisis* has added force when the legislature, in the public sphere, and citizens, in the private realm, have acted in reliance on a previous decision, for in this instance overruling the decision would dislodge settled rights and expectations or require an extensive legislative response.").

As discussed above, *supra* Part I.C, fair share provisions in collective bargaining agreements are standard practice to prevent free riding by non-members. The authorization of fair share provisions is an essential element of over twenty states' public sector collective bargaining laws. In the absence of fair share provisions to prevent free riding, it is not clear how states that want to maintain the benefits of public sector unions would revise their labor laws. Reversing *Abood* runs the risk of fatally weakening public sector unions.

These reliance interests are far from speculative. Public sector workers often choose their careers and commit to public service in part because of the benefits and opportunities that union-negotiated contracts offer. Millions of workers have chosen to serve their communities as teachers, nurses, firefighters, and other public servants, despite an overall wage penalty for choosing public sector work, with the reasonable expectation that they could obtain the basic economic opportunities provided by union representation—equal opportunity, fair wages, health insurance, and other

benefits. These losses will be felt most strongly by the women and people of color who have relied upon unions to provide a pathway to the middle class. Thus, for purposes of this Court's reliance analysis, these individuals' expectations warrant protection just as the investment-backed expectations of other parties have received due consideration when this Court reconsiders settled precedent. *See, e.g., Quill Corp. v. North* , 504 U.S. 298, 317 (1992) (noting that rule at issue had "engendered substantial reliance and [had] become part of the basic framework of a sizable industry").

Contrary to Petitioners' claims, overturning *Abood* would have substantial and far-reaching consequences. *See* Pet. Br. at 58 (minimizing the consequences of the relief they seek as "simply enabl[ing] nonmembers to decline future funding for collective-bargaining efforts they reject."). At best, it would cause disarray and uncertainty about the continuing validity of thousands of collective bargaining agreements, and even modest levels of free-riding would make established collective bargaining relationships less stable and effective, and limit opportunities for workers. At worst, it would fatally impair the ability of states to authorize collective bargaining in the public sector because free riding would become so prevalent that under-funded unions would not be able to effectively negotiate and enforce collective bargaining agreements. *See supra* Part I.B. As this Court has repeatedly recognized, the risk of free riding absent fair share provisions is a substantial harm. *Abood*, 431 U.S. at 221-22; *Lehnert*, 500 U.S. at 556-57 (Scalia J. concurring in judgment and dissenting in part).

Petitioners' characterization of this extensive harm as merely a choice of non-members to decline contributing ignores basic principles of economics as well as existing evidence, while critically endangering the public sector employment market.

CONCLUSION

For the foregoing reasons, *amici* urge this Court to affirm the judgment below and reject Petitioners' call to overturn the Court's precedent in *Abood*.

Respectfully submitted,

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APPENDIX A: ADDITIONAL *AMICI CURIAE*

Additional *amici curiae* include:

9to5, National Association of Working Women is a 42-year-old national membership organization of women in low-wage jobs organizing for workplace fairness, equal opportunity and economic security.

The **Alliance for a Just Society** is the leading nonprofit organization that works with a network of community organizations and small business to facilitate full participation in the American political process.

Alliance for Justice ("AFJ") is a national association of over 100 organizations committed to progressive values and the creation of an equitable, just, and free society. AFJ works to ensure that the federal judiciary advances core constitutional values, preserves human rights and unfettered access to the courts, and adheres to the even-handed administration of justice for all Americans.

The **Alliance for Retired Americans** is a 4.4 million national membership organization that advocates to ensure social and economic justice and full civil rights for all citizens so that they may enjoy lives of dignity, personal and family fulfillment and retirement security.

In 1881, the **American Association of University Women** ("AAUW") was founded by like-minded women who had defied society's conventions by earning

college degrees. Since then it has worked to increase women's access to higher education through research, advocacy, and philanthropy. Today, AAUW has more than 170,000 members and supporters, 1,000 branches, and 800 college and university partners nationwide. AAUW plays a major role in mobilizing advocates nationwide on AAUW's priority issues, and chief among them is increased access to higher education. In adherence with our member-adopted Public Policy Program, AAUW supports affirmative action programs that establish equal opportunity for women and minorities and improve gender, racial, and ethnic diversity in educational institutions.

The **American Civil Liberties Union** is a nationwide, nonprofit, nonpartisan organization with approximately 500,000 members dedicated to the principles of liberty and equality embodied in the Constitution and this nation's civil rights laws. Since its founding in 1920, the ACLU has supported the right of workers to organize and bargain collectively. The ACLU has also been a strong supporter of free speech rights for nearly a century.

Asian Americans Advancing Justice | Asian American Justice Center ("Advancing Justice | AAJC") is a nonprofit, nonpartisan organization that seeks to promote a fair and equitable society for all by working for civil and human rights and empowering Asian American, Native Hawaiian, and Pacific Islander ("AANHPI") communities. Advancing Justice | AAJC advances its mission through advocacy, public policy, public education, and litigation. Any hint of an action

that raises the possibility of disenfranchisement of AANHPI communities is of grave concern to Advancing Justice | AAJC and its ongoing efforts to promote greater civil rights, protections, justice, and equality.

The **Asian Pacific American Labor Alliance** ("APALA") is the first and only national organization of Asian American and Pacific Islander ("AAPI") union members and allies advancing worker, immigrant, and civil rights.

As a membership based organization, APALA has 18 chapters in 12 states, serving as a bridge connecting the AAPI community with the broader labor movement.

APALA, founded in 1992, has a long record of organizing, standing up and fighting for workers from all walks of life across the country.

Atlanta Women for Equality is a nonprofit organization dedicated to providing free legal advocacy to women and girls facing sex discrimination in the workplace or school and to helping our community build employment and educational environments according to true standards of equal treatment. We recognize that unions have long been and continue to be crucial figures in the struggle to protect and expand the rights of women to equal treatment and opportunity in the workforce.

Bend the Arc: A Jewish Partnership for Justice ("Bend the Arc") is the nation's leading progressive Jewish voice empowering Jewish Americans to be advocates for the nation's most vulnerable. Bend the Arc mobilizes Jewish Americans beyond religious and institutional boundaries to create justice and opportunity for all, through bold leadership development, innovative civic engagement, and robust progressive advocacy.

California Women Lawyers ("CWL") has represented the interests of more than 30,000 women in all facets of the legal profession since 1974. CWL's mission includes advancing women's interests, extending universal equal rights and eliminating bias. In pursuing its values of social justice and gender equality, CWL often joins amici briefs challenging discrimination by private and governmental entities, weighs in on proposed California and federal legislation, and implements programs fostering the appointment of women and other qualified candidates to the bench.

Caring Across Generations is a national movement of families, caregivers, people with disabilities and aging Americans working to transform the way we care in this country. By harnessing the power of online action, grassroots organizing and innovative culture change work, we are shifting how our nation values caregiving and calling for policy solutions that enable all of us to live and age with dignity and independence.

The **Center for Community Change** ("CCC") is a national, non-profit organization that partners with

community-based, membership organizations throughout the country to help create access to good jobs for all who seek them. Our work, and that of our partner community-based organizations includes a strong focus on issues affecting access to good quality jobs for women and people of color.

The **Center for Law and Social Policy** ("CLASP") is a national, nonpartisan, anti-poverty organization advancing policy solutions that work for low-income people. With nearly 50 years of trusted expertise, a deeply knowledgeable staff, and a commitment to practical yet visionary approaches to opportunity for all, we lift up the voices of poor and low-income children, families, and individuals, equip advocates with strategies that work, and help public officials put good ideas into practice. Our solutions directly address the barriers that individuals and families face because of race, ethnicity, and immigration status, in addition to low income. We know there is no silver bullet, so we put good ideas together for maximum impact—such as "two-generational" approaches that help both children and parents escape poverty.

The **Center for Popular Democracy** ("CPD") works to create equity, opportunity and a dynamic democracy in partnership with high-impact base-building organizations, organizing alliances, and progressive unions. CPD strengthens our collective capacity to envision and win an innovative pro-worker, pro-immigrant, racial and economic justice agenda.

Established in 1974, the nonprofit **Clearinghouse on Women's Issues** ("CWI") provides a channel for dissemination of information on national and international issues of interest to women and girls. In doing so it raises awareness and acts as a catalyst to increase gender equality. Strong Unions are important allies in attaining this goal.

Coalition of Black Trade Unionists ("CBTU") is a powerfully effective voice for Black Unionists built on a legacy of diversity that advocates for the rights of all black workers. We believe that true power comes from a united collective workforce.

The **Coalition on Human Needs** ("CHN") is an alliance of national organizations working together to promote public policies which address the needs of low-income and other vulnerable populations. CHN supports workers' freedom to form unions and to bargain collectively.

Connecticut Citizen Action Group ("CCAG") is a statewide membership organization dedicated to building a more just and democratic society.

Courage Campaign is a non-profit organization dedicated to economic justice, human rights, and holding corporations and politicians accountable for their actions. We have more than 1,000,000 members and engage them via digital tools, including email, social media, and SMS messaging.

Demos is a national public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy. Demos engages in litigation, research and advocacy to support economic opportunity, political representation, and racial equity for all Americans.

Disciples Home Missions of the Christian Church (Disciples of Christ) in the United States and Canada: We are Disciples of Christ, a movement for wholeness in a fragmented world. As part of the one body of Christ we welcome all to the Lord's Table as God has welcomed us.

Equal Rights Advocates ("ERA") is a national non-profit legal organization dedicated to protecting and expanding economic and educational access and opportunities for women and girls. Since its founding in 1974, ERA has litigated numerous class actions and other high-impact cases on issues of gender discrimination and civil rights. Through litigation and other advocacy efforts, ERA has helped to expand workplace protections and conferred significant benefits on large groups of women and girls. ERA also assists hundreds of individuals each year facing unfair, substandard, and unequal conditions on the job and at school through our free national Advice and Counseling program. ERA has participated as amicus curiae in scores of cases involving the interpretation and application of legal rules and laws affecting workers' rights and access to justice.

Family Values @ Work is a non-profit organization and national network of 21 state coalitions committed to growing the movement for family friendly workplace policies like paid family leave and paid sick days. We work in coalition with community and labor organizations and value the contribution they make to fair workplaces, and a just society.

Gay & Lesbian Advocates & Defenders ("GLAD"), founded in 1978, is New England's leading public interest legal organization dedicated to ending discrimination based on sexual orientation, HIV status, and gender identity and expression. GLAD has litigated widely in both state and federal courts in all areas of the law in order to protect and advance the rights of lesbians, gay men, bisexuals, transgender individuals and people living with HIV and AIDS.

Good Jobs First is a non-profit 501(c)(3), non-partisan organization founded in 1998 that promotes accountability in economic development incentives and smart growth for working families. Among the best practices we monitor and promote are job quality standards: the idea that taxpayer dollars spent in the name of jobs should help raise wages and benefit levels for front-line workers.

In the Public Interest is a research and policy center committed to promoting the values, vision, and agenda for the common good and democratic control of public goods and services.

Interfaith Worker Justice ("IWJ") is a network-based national organization with over 60 affiliates across the country working on the interest of workers' rights locally and nationally. IWJ works to educate the public on workers' rights issues, organize and advocate for better policies for workers' rights.

Jobs With Justice believes that all workers should have collective bargaining rights, employment security, and a decent standard of living within an economy that works for everyone. We bring together labor, community, student, and faith voices at the national and local levels to win improvements in people's lives and shape the public discourse on workers' rights and the economy.

The **Labor Council for Latin American Advancement** ("LCLAA") is a national organization representing the interests of approximately 1.7 million Latino trade unionists throughout the United States and Puerto Rico. LCLAA works to promote equality in the workplace and to help Latino and Latina workers achieve economic prosperity.

The **League of United Latin American Citizens** ("LULAC") is the largest and oldest Hispanic membership organization in the United States. With over 132,000 members in virtually every state of the nation, LULAC advances the economic condition, educational attainment, political influence, health, and civil rights of Hispanic Americans. For more than 83 years, LULAC's members have sought increased opportunities in higher education for Hispanic students

through the desegregation of public schools, reaching parity in school funding, the provision of scholarships, educational counseling, and strong affirmative action programs.

Legal Momentum, the Women's Legal Defense and Education Fund, is a nonprofit organization founded in 1970 to advance the rights of girls and women across the nation by using the power of the law. We LEAD: litigate, educated, advocate and defend to promote gender equality. Legal Momentum works in three broad areas: economic justice, freedom from gender-based violence, and equality under the law. Our initiatives include bringing cutting-edge law-reform oriented lawsuits, judicial gender-based education programs, and drafting and supporting innovative legislation, including the Violence Against Women Act.

The **Mexican American Legal Defense and Education Fund** ("MALDEF") is a national civil rights organization established in 1968. Its principal objective is to secure the civil rights of Latinos living in the United States through litigation, advocacy, and education. MALDEF's mission is to foster sound public policies, laws, and programs to safeguard the civil rights of Latinos living in the United States and to empower the Latino community to participate fully in our society.

National Action Network ("NAN") founded in 1991, works tirelessly in the tradition of Dr. Martin Luther King, Jr. to secure equal justice for all. NAN serves as

a bulwark against societal regression in a nation faced with many challenges.

The **National Association for the Advancement of Colored People** ("NAACP"), founded in 1909, is the nation's oldest and largest civil rights organization. The NAACP's principal objectives are to ensure the political, educational, social and economic equality of all citizens; to achieve equality of rights and eliminate race prejudice among the citizens of the United States; to remove all barriers of racial discrimination through democratic processes; to seek enactment and enforcement of federal, state and local laws securing civil rights; to inform the public of the adverse effects of racial discrimination and to seek its elimination; to educate persons as to their constitutional rights and to take all lawful action to secure the exercise thereof.

The **NAACP Legal Defense & Educational Fund, Inc.** ("LDF"), is a non-profit legal organization formed to redress injustice caused by racial discrimination and assist African-Americans and other people of color in securing their civil and constitutional rights. For seventy-five years, LDF has appeared as counsel of record or *amicus curiae* in numerous cases before this Court and other federal courts on matters of race discrimination in general and employment discrimination in particular.

Established in 1955, the **National Association of Social Workers** ("NASW") is the largest association of professional social workers in the United States with over 130,000 members in 55 chapters. The California

Chapter of NASW has 10,5000 members. Among other organizational purposes, NASW develops policy statements on issues of importance to the social work profession. Consistent with those statements, NASW supports the right of workers to organize, to engage in collective bargaining to improve their working conditions, and to strike to draw attention to their grievances.

National Black Justice Coalition ("NBJC") is a civil rights organization dedicated to empowering Black LGBT people. As America's leading national Black LGBT civil rights organization focused on federal public policy, NBJC has accepted the charge to lead Black families in strengthening the bonds and bridging the gaps between the movements for racial justice and LGBT equality.

The **National Center for Lesbian Rights** ("NCLR") is a national non-profit legal organization dedicated to protecting and advancing the civil rights of LGBT people and their families through litigation, public policy advocacy, and public education. Since its founding in 1977, NCLR has played a leading role in securing fair and equal treatment for LGBT people and their families in cases across the country involving constitutional and civil rights. NCLR has a particular interest in promoting equal opportunity for LGBT people in employment, including by supporting organized labor.

The **National Center for Transgender Equality**, founded in 2003, is dedicated to improving the lives of

transgender people and ending discrimination and violence through advocacy, education, and collaboration.

Founded in 1976, **The National Coalition on Black Civic Participation** ("NCBCP") is the only national historically Black organization that has as its highest priority increasing civic engagement within the Black community. The Black Women's Roundtable ("BWR") is the intergenerational women and girls empowerment arm of the NCBCP. The BWR promotes health and wellness, economic security & prosperity, quality public education and global empowerment as key to achieving a higher quality of life for all Americans. The BWR membership represents the issues and concerns of millions of women and their families across the country.

The **National Committee to Preserve Social Security and Medicare** ("NCPSSM") is a non-profit membership organization with more than three million members and supporters. For 33 years, NCPSSM's mission has been to preserve and protect the financial security, health, and wellbeing of current and future generations of maturing Americans. Our legislative advocacy, policy expertise, and educational outreach have focused on the preservation, protection, and strengthening of programs and benefits that ensure access to adequate economic and health care security during retirement or disability. As an organization whose membership includes low-income women, people from communities of color and from the LGBT community who have suffered lower wages and have been subject to employment discrimination, NCPSSM has a vested

interest in the economic security of retirees and people in the workforce as they save for retirement.

The **National Consumers League** is a private, nonprofit advocacy group representing consumers on marketplace and workplace issues. We are the nation's oldest consumer organization. The mission of the National Consumers League is to protect and promote social and economic justice for consumers and workers in the United States and abroad.

The **National Council of Jewish Women** ("NCJW") is a grassroots organization of 90,000 volunteers and advocates who turn progressive ideals into action. Inspired by Jewish values, NCJW strives for social justice by improving the quality of life for women, children, and families and by safeguarding individual rights and freedoms. NCJW's Resolutions state that NCJW resolves to work for "Laws, policies, and employment practices that allow workers to meet both family and work responsibilities."

The **National Domestic Workers Alliance** ("NDWA") is a national non-profit that represents over 10,000 domestic workers and a growing alliance of 48 organizations across the country. Our members are predominantly low-income women of color.

The **National Employment Law Project** ("NELP") is a non-profit legal organization with over 45 years of experience advocating for the employment and labor rights of low-wage and unemployed workers. NELP seeks to ensure that all employees, and especially the

most vulnerable ones, receive the full protection of employment laws.

The **National Employment Lawyers Association** ("NELA") is the largest professional membership organization in the country comprised of lawyers who represent workers in labor, employment and civil rights disputes. Founded in 1985, NELA advances employee rights and serves lawyers who advocate for equality and justice in the American workplace. NELA and its 69 circuit, state, and local affiliates have a membership of over 4,000 attorneys who are committed to working on behalf of those who have been illegally treated in the workplace. NELA's members litigate daily in every circuit, affording NELA a unique perspective on how the principles announced by the courts in employment cases actually play out on the ground. NELA strives to protect the rights of its members' clients, and regularly supports precedent-setting litigation affecting the rights of individuals in the workplace.

The **National Immigration Law Center** ("NILC") is a legal advocacy organization whose mission is to defend and advance the rights of low-income immigrants and their families. NILC has a national reputation for its expertise in the complex intersection of employment and immigration law. NILC has litigated key immigration-related employment law cases, drafted legal reference materials relied on by the field, trained countless advocates, attorneys, and government officials, and provided technical assistance on a range of legal issues affecting low-wage immigrant workers.

National LGBTQ Task Force is a progressive social justice organization that supports advancing, enforcing and preserving policies that directly impact the lives and livelihoods of lesbian, gay, bisexual and transgender people and our families.

The National Organization for Women ("NOW") Foundation is a 501(c)(3) organization affiliated with the National Organization for Women, the largest feminist grassroots organization in the U.S., with hundreds of chapters in every state and the District of Columbia. NOW Foundation's mission is to advance equal rights for women through education and litigation.

The **National Partnership for Women & Families**, a nonprofit, national advocacy organization founded in 1971 as the Women's Legal Defense Fund, promotes equal opportunity for women, access to quality health care, and policies that help women and men meet both work and family responsibilities. The National Partnership has devoted significant resources to combating sex and race discrimination in education and employment.

National People's Action ("NPA") is a national non-profit organization and affiliate network with a mission to advance racial and economic justice. NPA is grounded in the leadership of everyday people – poor, working and middle class families; African American, Latino, white; immigrants and citizens. NPA builds and strengthens affiliate organizations so that grassroots

leaders have a seat at the table in today's most pressing policy debates, from immigration to financial reform, from progressive taxation to corporate accountability and climate change. The growing NPA National Network is currently comprised of twenty-seven affiliated membership organizations in eighteen states.

The **National Urban League** is an historic civil rights and urban advocacy organization dedicated to economic empowerment in historically underserved urban communities. Founded in 1910 and headquartered in New York City, the National Urban League improves the lives of more than two million people annually through direct service programs, including education, employment training and placement, housing and health, that are implemented locally by more than 90 Urban League affiliates in 300 communities across 36 states and the District of Columbia.

The **National Workrights Institute** is a not-for-profit research and advocacy organization dedicated to improving protection for human rights in the workplace.

The Partnership for Working Families is a national network of local and regional advocacy organizations that are leading efforts to transform local economies by improving wages, working conditions and economic opportunities for low-income communities, communities of color and women.

People For the American Way Foundation ("PFAWF") is a nonpartisan civic organization

established to promote and protect civil and constitutional rights, as well as American values like equality and opportunity for all. Founded in 1981 by a group of civic, educational, and religious leaders, PFAWF now has hundreds of thousands of members nationwide. Over its history, PFAWF has conducted extensive education, outreach, litigation, and other activities to promote these values.

The **Paraprofessional Healthcare Institute** ("PHI") works to transform eldercare and disability services. We foster dignity, respect, and independence—for all who receive care and all who provide it. The nation's leading authority on the direct-care workforce, PHI promotes quality direct-care jobs as the foundation for quality care. Our nation's growing direct-care workforce now includes nearly 4 million home health aides, certified nurse aides, and personal care attendants. PHI works with providers, consumers, labor advocates and policymakers to strengthen these jobs, recognizing their potential to help unemployed women and their families to achieve economic independence. We develop not only recruitment, training, and supervision practices, but also the public policies necessary to support them.

To strengthen provider organizations and improve quality of care for elders and persons with disabilities, PHI provides extensive consulting services focused on managing change, strengthening teams, and building skills for person-centered care. Increasingly, PHI also offers entry-level, in-service, and incumbent worker training curricula to strengthen training for direct-care.

Pride at Work is the only organization that represents LGBTQ union members to advance the unique issues important to those members.

The **Sargent Shriver National Center on Poverty Law** ("Shriver Center") provides national leadership to promote justice and improve the lives and opportunities of people with low income. The Shriver Center advances laws and policies through litigation, legislative and policy advocacy, and administrative reform, to achieve economic, racial, and social justice for our clients. The Shriver Center's Women's Law and Policy Project specifically focuses on the economic security and advancement of low-income women.

The **Sierra Club** is a national nonprofit organization with 64 chapters and over 650,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. The Sierra Club's concerns include protecting citizens' ability to address environmental concerns via a healthy democratic process. The Club's particular interest in this case and the issues which the case concerns stem from (1) its founding membership in the Democracy Initiative, which seeks to restore the core principles of political equality, and (2) its Labor and Economic Justice Program, which builds alliances with the labor movement through the BlueGreen Alliance and other

initiatives to drive a transition to a fair and just clean energy economy.

The **Southwest Women's Law Center** is a leading nonprofit organization that facilitates and encourages full and active participation in the American political process, from citizenship to public service.

The **Union for Reform Judaism**, whose 900 congregations across North America includes 1.5 million Reform Jews, has a deep commitment to the rights of workers to organize and bargain collectively and to opposing "right-to-work" laws. We come to this issue rooted in Judaism's strong tradition of supporting the right to employment with dignity.

United Students Against Sweatshops ("USAS") is a national student labor organization fighting for workers' rights with locals on over 150 campuses. We recognize that strong campus worker unions are integral to quality higher education.

UniteWomen.org is a national non-partisan 501(c)(3) tax exempt non-profit organization. Our mission is to end inequality for women that stems from prejudice and discrimination and to defend and advance the human and civil rights of women and girls.

URGE: Unite for Reproductive & Gender Equity envisions a world where all people have agency over their own bodies and relationships, and the power, knowledge, and tools to exercise that agency. URGE builds this vision by engaging young people in creating

and leading the way to sexual and reproductive justice for all by providing training, field mobilization, and national leadership for a youth-driven agenda. URGE knows that economic security is a major factor in people's reproductive healthcare decisions. Everyone should have access to the resources they need to raise a family when they are ready.

USAction represents state based affiliate organizations representing hundreds of thousands of individuals across 20 states. We work for an America that works for all of us. Our members and activists care deeply about the collective bargaining rights of workers in the public and private sector because we believe when workers are able to collectively bargain for fair wages and good benefits they in turn are able to be greater participants in our democracy, provide better services and strengthen our communities. We know that unions have been the most effective way for all workers, particularly women, people of color and LGBT workers to decrease inequality and provide for a better future for themselves and their families.

West Virginia Citizen Action Group ("WV-CAG") has, for its 41 year history, advocated for the free expression of citizens' rights to organize in the workplace regardless of race, gender or ethnicity. WV-CAG has always encouraged active citizen involvement in formation of government policies that effect their lives and livelihoods.

Women Employed's mission is to improve the economic status of women and remove barriers to

economic equity. Women Employed promotes fair employment practices and helps increase access to training and education. Since 1973, the organization has assisted thousands of working women with problems of discrimination and harassment, monitored the performance of equal opportunity enforcement agencies, and developed specific, detailed proposals for improving enforcement efforts.

The **Women's Law Center of Maryland, Inc.** is a nonprofit, public interest, membership organization of attorneys and community members with a mission of improving and protecting the legal rights of women. Through its Multi Ethnic Domestic Violence project ("MEDOVI") it serves the immigration needs of foreign born victims of violence against women, seeking to ensure their safety, economic security, and autonomy.

The **Women's Law Project** ("WLP") is a nonprofit legal advocacy organization dedicated to creating a more just and equitable society by advancing the rights and status of all women throughout their lives. To this end, we engage in high impact litigation, policy advocacy, and public education. Founded in 1974, the WLP has a long and effective track record on a wide range of legal issues related to women's health, legal, and economic status. Economic justice and equality for women is a high priority for WLP.